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C O N F I D E N T I A L SECTION 01 OF 02 SANAA 000419

SIPDIS

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TAGS: [PTER](#) [PREL](#) [YM](#) [AESC](#) [COUNTER](#) [TERRORISM](#)

SUBJECT: YEMEN TERROR TRIALS UPDATE: COLE DEATH SENTENCE
COMMUTED, 11 OF THE "28+2" ON TRIAL, AAG READY WITH BANNA

REF: A. SANAA 2535

[B](#). SANAA 0175

Classified By: DCM Nabeel Khoury for Reasons 1.4 (b) and (d).

[1](#)1. (C) Summary. On 2/26 the Sanaa Appellate Court commuted the death sentence of U.S.S. Cole defendant Jamal Badawi to 15 years in prison and upheld the death sentence for Abd al-Rahim Nashiri (ref a). On 2/27 Assistant Attorney General (AAG) Sharaf al-Mahbashi along with Lead Prosecutor Saeed al-Aql met with Legatt and FPD to discuss the decision, the current case of eleven defendants who are part of the "28 plus 2," the status of Yemeni detainees Jaber al-Banna and Abdullah al-Rimi, and a thwarted plot to blow up selected Western targets in Sanaa. End Summary.

One Death Sentence Commuted in Cole Appeal

[1](#)2. (U) On 2/26 the Sanaa Appellate Court reduced sentences in two of the U.S.S. Cole trial verdicts and upheld four decisions:

-- Jamal Badawi: death sentence commuted to 15 years in prison.

-- Abd al-Rahim Nashiri (tried in absentia): death sentence upheld.

-- Fahd al-Quso: sentence of 10 years upheld. (Quso was involved in planning, but did not directly participate in the attack.)

-- Ali Muhammed al-Murrakkab and Murad al-Surouri: five year sentences upheld, out of a maximum seven.

-- Mamoun Al-Mussawah: sentence reduced to five years. Mussawa originally received eight years (out of a maximum ten years) for planning the attack.

[1](#)3. (SBU/NF) In a 2/27 meeting with Legatt and FPD, AAG Sharaf Addin Al-Mahbashi expressed "shock" at the appellate decisions, particularly with the Badawi verdict. Promising that his office would appeal the case after it determined the basis of the court's decision, Mahbashi said that Nashri, who was sentenced to death in abstentia, would likely be afforded a new trial once he was in Yemeni custody.

Eleven Security Detainees on Trail, 15 Released

[1](#)4. (C) Turning to the "28 plus 2" security detainees the USG expressed grave concerns over their potential release under last November's Ramadan Amnesty (ref b), AAG told emboffs that eleven defendants are currently on trial in the Yemeni Special Penal Court. The eleven, all of whom confessed to Prosecutor Saeed al-Aql, are on trial for, "Forgery with Intent to Aid Terrorism," and "Possession of Weapons with Intent to Aid Terrorism." Mahbashi repeatedly assured Legatt that another fifteen defendants who were originally on the list of "28 2," were released to the custody of a third party (i.e. relatives) with notices sent to governorate or local authorities should they be required to stand trial at a later date.

One Trial Unexpected

[1](#)5. (C) In a surprise announcement, AAG informed Legatt that his office is considering trying 13 defendants for planning to attack the Italian and British embassies as well as the French Cultural Center. Adding that twelve of the thirteen have confessed, Mahbashi said that the ringleader is a 20-year-old Iraqi citizen. He noted that there were Yemeni, Kuwaiti and Saudi nationals among those in custody. AAG refused Legatt's request for names until a trial was underway.

Al-Rimi in AG's Custody; Al-Banna is Not

16. (C) Concerning Abdullah al-Rimi, AAG stated that his office now had full access to the suspect and that Legatt was welcome to send an FBI team to help in the investigation. AAG warned Legatt not to inform Political Security (PSO) of the offer. On Jaber al-Banna, the AAG confided that his office still does not have custody of the suspect despite an official letter and several requests to the Minister of Interior (MOI). He repeated that he would inform Legatt of any new developments.

17. (C) Comment: While the appellate court ruling is a setback for U.S. and Yemen CT interests, the efforts executed by the AAG in prosecuting this case and the partnership established between the Mission and his office are encouraging signs for continued cooperation. Embassy will discuss the matter with relevant ministries to support the AAG in his efforts to take the appeal to the Supreme Court. End comment.
Krajeski